

**Remarks**

Applicant has amended Claim 1 to incorporate the limitations of Claim 3. Claim 3 has been cancelled as a result of this amendment. Claims 1-2 and 4-10 are pending in the application.

No new matter has been incorporated into the application as a result of the amendment made herein.

**Rejections Under 35 USC 103(a) Based on Haverstock '521 in view of Haverstock '564**

The Examiner has rejected claims 1-2 and 4-5 under 35 USC 103(a) as being unpatentable over Haverstock '521, in view of Haverstock '564, and further as a matter of design choice. Further, the Examiner has rejected claims 6-9 under 35 USC 103(a) as being unpatentable over Haverstock '521, in view of Haverstock '564, and further in view of Baker et al.

Applicants have amended Claim 1 to include the limitations of Claim 3 such that the wound closure / transfer marking device of claim 1 further comprises a secondary release sheet being disposed on the proximal surface of the primary release sheet. As acknowledged by the Examiner, a device comprising all the elements of amended claim 1 is patentable over all the prior art cited by the Examiner. Accordingly, reconsiderations and withdrawal of the prior art rejections based on Haverstock '521 and Haverstock '564 are earnestly solicited.

**Double Patenting Rejection**

The Examiner has provisionally rejected claims 1-10 on the grounds of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-23 of co-pending applications 10/640,175 and 10/830,948.

It is Applicant's position that the instantly claimed device is not obvious over the claims of the two co-pending applications for the following reasons. The devices claimed in the co-pending applications do not include an adhesive layer disposed on the proximal surface of a substrate", as required in the present claims. More specifically, a careful reading

of the claims of the co-pending applications indicate that the devices claimed therein comprise a drape 24 disposed between substrate 12 and adhesive layer 36. It is only after the devices of the co-pending applications have been utilized and the surgical drape is removed, that adhesive layer 36 becomes disposed on the proximal surface of substrate 12. However, nowhere is this embodiment of the device, i.e., the used device, claimed in the co-pending applications. Accordingly, reconsiderations and withdrawal of the double patenting rejection are appropriate.

**Conclusion**

In view of the foregoing remarks, allowance of claims 1-2 and 4-10 is earnestly solicited.

Respectfully submitted,

/Blossom E. Loo/

By: \_\_\_\_\_

Blossom E. Loo  
Reg. No. 36,858

Johnson & Johnson  
One Johnson & Johnson Plaza  
New Brunswick, NJ 08933-7003  
(732) 524-1596  
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